





August 30, 1984

John B. Howard, Esquire  
210 Allegheny Avenue  
P.O. Box 5517  
Towson, Maryland 21204

#### NOTICE OF HEARING

Re: Petitions for Special Exception and Variances  
NW/8 Beaver Dam Rd., 2,217 ft. SE of  
the c/l of Shawan Road  
Baltimore Gas & Electric Company - Petitioner  
Case No. 85-87-XA

TIME: 10:30 A.M.

DATE: Tuesday, September 25, 1984

PLACE: Room 106, County Office Building, 111 West Chesapeake  
Avenue, Towson, Maryland

*[Signature]*  
Zoning Commissioner  
of Baltimore County

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 131938

DATE: 7/27/84 ACCOUNT: 01-615-000

AMOUNT: \$ 200.00

RECEIVED: Cook, Howard, Downes & Tracy  
FROM: Filing for Case 85-87-XA #27

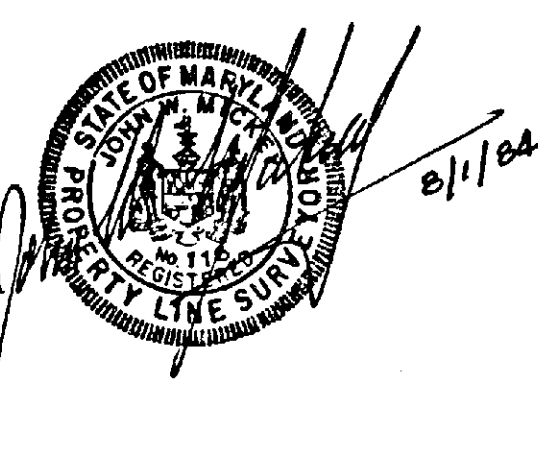
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Zoning Description  
Beaver Dam Gate Station

Located on Beaver Dam Road Approx. 1 mile N.W. of  
Texas, MD. Balto. Co. Elect. Dist. No. 8

BEGINNING at a point located in the centerline of Beaver Dam Road, 2217  
feet ± southeasterly from the centerline of Shawan Road; thence leaving said road  
and running South 73 degrees 05 minutes West 150.00 feet; thence South 16 degrees  
55 minutes East 298.51 feet; thence North 73 degrees 05 minutes East 150.00 feet  
to the centerline of Beaver Dam Road; thence running with the centerline of said  
road, North 16 degrees 55 minutes West 298.51 feet to the place of beginning.

CONTAINING 1.028 acres of land more or less.



#### CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 8th Date of Posting: 9-7-84  
Posted for: Special Exception and Variances  
Petitioner: Baltimore Gas & Electric Company  
Location of property: NW/8 Beaver Dam Rd., 2,217' SE of  
the c/l of Shawan Road  
Location of Sign: NW/8 Beaver Dam Rd. Approx. 2,240'  
SE of the c/l of Shawan Rd.  
Remarks:  
Posted by: *[Signature]* Date of return: 9-14-84  
Number of Signs: 2

**STATE OF PUBLICATION**  
85-87-XA  
Towson, Md. 11/13 1984  
THIS IS TO CERTIFY, that the annexed advertisement  
is published in the TOWSON TIMES, a weekly news-  
paper distributed in Towson, Baltimore County, Md.,  
once a week for 1 consecutive weeks, the  
first publication appearing on the 5th day of  
September 1984.  
The TOWSON TIMES  
*[Signature]*  
Cost of Advertisement: \$ 34.95

#### CERTIFICATE OF PUBLICATION

TOWSON, MD. Sept. 6, 1984  
THIS IS TO CERTIFY, that the annexed advertisement was  
published in THE JEFFERSONIAN, a weekly newspaper, printed  
and published in Towson, Baltimore County, Md., appearing on  
Sept. 6, 1984.

THE JEFFERSONIAN,

*[Signature]*  
Publisher

Cost of Advertising 28.00

BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3333

ARNOLD JABLON  
ZONING COMMISSIONER

September 19, 1984

John B. Howard, Esquire  
210 Allegheny Avenue  
P.O. Box 5517  
Towson, Maryland 21204

RE: Petition for Special Exception  
and Variances  
NW/8 Beaver Dam Rd., 2,217' SE  
of the c/l of Shawan Road  
Baltimore Gas & Electric Co. - Petitioner  
Case No. 85-87-XA (Item #27)

Dear Mr. Howard:

This is to advise you that \$72.98 is due for advertising and posting  
of the above property.

This fee must be paid and our zoning sign and post returned on the day  
of the hearing before an Order is issued. Do not remove sign until day of hearing.

Please make the check payable to Baltimore County, Maryland, and  
remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building,  
Towson, Maryland 21204, before the hearing.

Sincerely,

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 134356

DATE: 9-25-84 ACCOUNT: R-01-615-000

AMOUNT: \$72.98

RECEIVED: Cook, Howard, Downes & Tracy  
FROM: Adv. & Posting Case 85-87-XA  
(Baltimore Gas & Electric Company)  
0 037\*\*\*\*\*729818 8254F

VALIDATION OR SIGNATURE OF CASHIER

LAW OFFICES  
COOK, HOWARD, DOWNES & TRACY  
210 ALLEGHENY AVENUE  
P.O. BOX 5517  
TOWSON, MARYLAND 21204

September 28, 1984

Mr. Albert Svehla  
Acting Facilities Planner  
Department of Recreation and  
Parks  
Baltimore County  
County Office Building  
Towson, Maryland 21204

Re: Baltimore Gas & Electric Company -  
Beaver Dam Gate Station  
Impermeable Surface Requirement

Dear Mr. Svehla:

As you will recall from our phone conferences,  
Baltimore Gas & Electric Company ("BG&E") appeared before  
the Deputy Zoning Commissioner for Baltimore County on  
Tuesday, September 25th, on Petitions for Special Exception  
and Zoning Variances to allow a gate station at the above-  
referenced location for the metering and regulating of  
natural gas. This gate station, located in an RC-4 zone,  
is subject to a requirement that no more than 10% of the  
site be covered by impermeable surfaces. BG&E requested  
a variance from this requirement.

People's Counsel for Baltimore County and the Office  
of Planning and Zoning were opposed to the granting of  
any such variance from the impermeable surface requirements  
in the RC-4 zone. The Beaver Dam site is, however, unique  
in that the property is contiguous to 455.7 acres comprising  
the largest section of the Oregon Ridge Park. This 455  
acre parcel purchased in 1969 by Baltimore County was  
funded in part with the United States Department of Housing

#### PETITIONS FOR SPECIAL EXCEPTION AND VARIANCES

8th Election District

ZONING: Petitions for Special Exception and Variances  
LOCATION: Northwest side Beaver Dam Road, 2,217 ft. Southeast of  
the centerline of Shawan Road  
DATE & TIME: Tuesday, September 25, 1984 at 10:30 A.M.  
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue,  
Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and  
Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for a public utility use (building),  
pursuant to Section 1403.28.8 of the Baltimore County Zoning  
Regulations for the metering and regulating of natural gas; Variances  
to permit a side and rear yard setback of 30 ft. instead of the  
required 50 ft. and a 70 ft. setback to the centerline of the street  
instead of the required 100 ft. and to permit 19.7% lot coverage  
instead of the required maximum of 10% of impermeable surface and to  
permit a distance between buildings of 78 ft. in lieu of the required  
100 ft.

Being the property of Baltimore Gas and Electric Company, as shown on plat plan  
filed with the Zoning Department.

In the event that these Petitions are granted, a building permit may be issued within  
the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain  
any request for a stay of the issuance of said permit during this period for good  
cause shown. Such request must be received in writing by the date of the hearing  
set above or made at the hearing.

BY ORDER OF  
ARNOLD JABLON  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY

Mr. Albert Svehla  
Page 2  
September 28, 1984

and Urban Development monies ("HUD"). In exchange for  
approximately \$319,000.00, Baltimore County agreed in  
a "Contract for Grant to Acquire Land for Open Space Purposes"  
(attached) at section 2(b) to the following restrictions:

"The Public Body agrees to retain  
said land as developed for permanent and  
open space purposes, and the open space  
use or uses of said land shall be for park  
and recreational purposes, conservation of  
land and other natural resources, or historic  
or scenic purposes."

Also running through this 455 acre parcel are a  
gas pipeline easement owned by BG&E and an installed pipeline  
owned by Transcontinental Gas Pipe Line Corporation ("Transco")  
for which an easement with Recreation and Parks will be  
executed. Both the existing and proposed pipeline easements  
serve, and are thus an integral part of, the proposed  
facility.

At the hearing before the Deputy Zoning Commissioner,  
People's Counsel and Counsel for Baltimore Gas & Electric  
Company agreed that if the Department of Recreation and  
Parks would agree not to cover these pipeline easements  
with any impermeable surface, such open space could be  
included in the total site area of the Beaver Dam Gate  
Station. This would bring the total coverage by impermeable  
surface under the 10% maximum allowed and moot the requested  
variance. This stipulation by counsel is, of course,  
subject to Recreation and Parks entering into such an  
agreement.

It is my understanding from Stanley Schapiro, Assistant  
County Attorney, that given the restrictions already imposed  
on this parcel pursuant to the above-referenced "HUD contract,"  
the Office of Law would have no objection to such an agreement  
being entered into by Recreation and Parks with BG&E and  
Transco. In our meeting scheduled for Friday, September  
28, 1984, I will provide you with a plat depicting the  
location of the two gas pipeline easements referred to  
above, and hopefully obtain the approval of Recreation  
and Parks to enter into this stipulation.



CC: Stanley Schapiro, Assistant County Attorney  
Peter Max Zimmerman, Esquire  
William E. Colburn, Esquire  
John B. Howard, Esquire  
Jean Jung, Deputy Zoning Commissioner

In order to assist the Public Body in carrying out the Project, the Government agrees to make a Grant in an amount equal to 50 percent of the actual cost of the

Rate of beginning.

\_\_\_\_\_

[illegible][illegible]

SAVING AND EXCEPTING FROM THE

EXHIBIT A  
Page 2 of 3

The Public Body will compensate the Government for its inspections and audits, provided for in Section 10(B) of Part II of this Contract, a fixed fee in the amount of \$ .

The first requisition for a Grant payment to the Government shall be payable at the time the first inspection or audit is performed. The balance of the fixed fee of the entire Contract, in the amount of \$ , shall be paid to the Government at the time the first Grant payment is approved by the Public Body. Provided that the amount of the Grant amount authorized under Section 3 hereof with respect to the annual cost of the project is increased, the additional fixed fee payable hereunder shall be deducted from the Grant amount.

[illegible]

*(continued)*

By JEROME E. PARKER *et al.*  
Assistant Regional Administrator for  
Metropolitan Development, Region II

541 22 1004

On Friday, October 1, 1964, the Bureau of the Order drafted in the following letter to provide me with a prior comment that this


On Friday, October 19, 1984, I received a copy of the proposed Opinion and Order drafted in the above-entitled matter. The Petitioner did not provide me with a prior opportunity to review the proposal. As I recall, the comment that this office would have two days to comment was premised on the idea that the substance of the Order was to be agreed on cooperatively so that a joint presentation could be made to the Deputy Commissioner.

Accordingly, I will need more than two days to prepare a different proposal on behalf of this office. I find that the Petitioner's proposal differs from the concept expressed at the hearing and contradicts important conditions referred to in correspondence dated September 18th and 26th,

It was my understanding that any agreement reached at the hearing on September 25, 1984 was tentative, a project to the preparation of a document satisfactory to all parties and subject to confirmation of the authority of the county to enter into the proposed transactions.

In an effort further to facilitate resolution of this case, I elaborated in my letter dated September 26, 1984 the conditions established in the Pleasant Hill County case which I stated were the basis for the case. Otherwise stated, any agreement made September 26, 1984 was predicated on the ability of the parties further to agree on satisfactory documentation

Accordingly, I respectfully request until Monday, November 5, 1984 to submit a proposed Opinion and Order. This office remains available to discuss the matter with Petitioner, in the event that Petitioner is interested in working out an agreed Order.

Very truly yours,  
  
 Peter Max Zimmerman  
 Deputy People's Counsel

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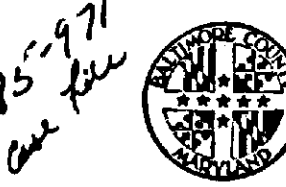
- 2 -

Jean M. H. Jung, Deputy  
Zoning Commissioner

October 22, 1984

cc: John B. Howard, Esquire  
Robert A. Hoffman, Esquire  
William E. Colburn, Esquire  
Dennis Sutton  
Malcolm F. Spicer, Jr., Esquire  
Paul J. Solomon

PMZ:sh



Baltimore County, Maryland

PEOPLE'S COUNSEL  
RM. 223, COURT HOUSE  
TOWSON, MARYLAND 21204  
494-2188

PHYLIS COLE FRIEDMAN  
People's Counsel

Jean M. H. Jung, Deputy  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

October 25, 1984

RE: Baltimore Gas & Electric Co.,  
Petitioner - Case No. 85-87-XA

Dear Mrs. Jung:

Following up my letter dated October 22, 1984, enclosed please find the enclosed Memorandum Opinion and Interlocutory Order to be submitted in the above case.

Please note that it was substantially prepared prior to our conference of October 25th. Pursuant to that discussion, I intend to meet with Robert Hoffman, Esquire, at 11:00 a.m. on Friday, October 26th to attempt to work out the differences between the respective submissions of the Petitioner and ours.

Very truly yours,

*Peter Max Zimmerman*  
Peter Max Zimmerman  
Deputy People's Counsel

Enclosure

cc: John B. Howard, Esquire  
Robert Hoffman, Esquire  
Malcolm F. Spicer, Jr., Esquire  
PMZ:sh

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE DEPUTY ZONING COMMISSIONER  
PETITION FOR VARIANCES : OF BALTIMORE COUNTY  
Beginning at Centerline of : Beaver Dam Rd., 2217' SE of  
Centerline of Shawan Rd., : Case No. 85-87-XA  
8th District :  
BALTIMORE GAS & ELECTRIC :  
COMPANY, Petitioner :

MEMORANDUM OPINION AND INTERLOCUTORY ORDER

The Petitioner herein, the Baltimore Gas & Electric Company ("BG&E"), requests a special exception to allow a public utility use for the metering and regulating of natural gas and variances to permit side and rear yard setbacks of 30' in lieu of the required 50' and a front yard setback of 70' in lieu of the required 100' (herein the "setback variances"), as well as a variance to permit greater than 10% coverage of the RC-4 zoned parcel by impermeable surfaces (herein the "impermeable surface variance").

In reference to the impermeable surface variance, the parties tentatively agreed that it would be moot upon the following conditions:

1. Baltimore County, Maryland would have to agree to restrict its use of land above two contiguous pipeline easements owned, respectively, by BG&E and Transcontinental Gas Pipeline Corporation.
2. The area of these easements so restricted would be sufficient so that, in combination with the uncovered area on the subject site, the amount of impervious surface on the site would be brought under the 10% maximum.
3. As a prerequisite to the mooted of the variance, all parties would have to agree to the form and sufficiency of the documents prepared to carry out this intent, with a view to insuring the integrity and permanence of the restrictions.

- 2 -

4. There would have to be satisfactory confirmation of the authority of the county to enter into such restrictions, so that an Opinion of the County Office of Law would be necessary.

The County Board of Appeals of Baltimore County had occasion previously to decide upon Pleasant Hill Chapel's requested variance to Section 1A03.4B5 (the maximum 10% impermeable restriction in RC-4 zones) and to consider the type of land transactions which might satisfactorily moot or legally satisfy the requirement. In that case, No. 82-98-A, the Board conditioned its approval upon language in the Order, plat, and easement providing the perpetual maintenance of the specified terms, conditions and restrictions without limitation; the provision that the grant is effective only so long as the easement is not limited or restricted in any manner, or until extinguished in part or in whole by a later Order of the County Board of Appeals; the references to the purposes of the arrangement, and the agreement of the parties to the easement that no modification of the agreement or alienation of the property shall occur without further Order and approval of the Board; the provision that the agreement may be enforced by duly authorized public officials and/or interested parties; and the reference in the body of the Easement Agreement to the zoning case; and the clause that the conditions of the easement shall not be amended or abandoned by the parties or their successors until further Order of the County Board of Appeals.

Furthermore, the Board expressed its special concern for the legislative purpose of environmental protection. Therefore, the interest of BG&E, a public utility, in the proposed Beaver Dam Gate Station must be considered subject to the primary goal of preserving the natural resources

- 3 -

and water supply watersheds of Baltimore County. In this context, the decision in Pleasant Hill Chapel must be followed and conditions required there incorporated in this Order and any accompanying documents. Moreover, it will be necessary that an Opinion of the County Office of Law be secured sustaining the authority for the participation of Baltimore County, Maryland in the transactions.

The Petitioner's requests are, in effect, a request for an amendment to a special exception granted on November 4, 1949, Case No. 1570-S, and for variances to enlarge an existing facility for the metering and regulating of natural gas and construct a new building or station. Thus, the Petitioner has the burden of satisfying the requirements of Sections 411 and 502.1 BCZR for the setback variances.

The Petitioner presented testimony through C. W. Crooks, Jr., General Supervisor of Planning and Engineering for BG&E, and Mr. Robert W. Pohl, Project Manager for the subject facility. Both witnesses testified that the proposed use would be conducted without detriment to the neighborhood and would not adversely affect the public interest. Further, testimony indicated that the proposed use would result in a substantial savings to rate payers of BG&E.

Also appearing on behalf of Petitioner was Mr. Bernard Senon, a licensed real estate appraiser, who testified that operation of this facility would not adversely affect surrounding property values.

Mr. Dennis Sutton, a neighboring Protestant, complained of a loud noise emanating from the site. Mr. Pohl, the project manager, acknowledged that, in the absence of the building covering it, the operation was producing noise at levels around 70dBs. He testified, however, that following construction, the levels would be down to about 50-55 dBA, within the

permissible limits of state law. Mr. Sutton also expressed concern about the appearance of the facility, but stated generally that BG&E had been reasonably cooperative through the years.

It appears from the testimony and evidence presented that, aside from the question of impermeable coverage, the use proposed by Petitioner at the particular location described by Petitioner's Exhibit 1 will not have any adverse impact above and beyond those inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 291 Md. 1 (1981). The testimony was convincing that, subject to the conditions necessary to satisfy BCZR 1A03.4B5, the proposed use will probably not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion of roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the BCZR.

Therefore, after reviewing all of the testimony and evidence presented, it appears that this amendment to an existing special exception, as applied for, should be granted, with certain conditions and restrictions as more fully described below.

With regard to Petitioner's setback variances, an area variance may be granted where strict application of the zoning regulation to the Petitioner and his property would cause practical difficulty. McLean v. Solex, 270 Md. 208 (1973). To prove practical difficulty for an area variance a Petitioner must prove the following:

- 5 -

1. That strict compliance with the requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. That the grant would do substantial injustice to applicant as well as other property owners in the district or that a lesser relaxation than that applied for would give substantial relief; and
3. That relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such uses proposed would not be contrary to the spirit and intent of the BCZR and would not result in substantial detriment to the public good. Moreover, if the requested setback variances are not granted, a practical difficulty or unreasonable hardship would result, since, without the setback variances, there could be no facility as proposed and the special exception would be rendered meaningless.

Therefore, after due consideration of all testimony and evidence, it appears that the setback variances should be granted.

With regard to the impermeable surface variance, the satisfaction of the stated conditions will allow the spirit and intent of Section 1A03.4B.5 of the BCZR to be met and render the requested variance moot.

- 6 -

Pursuant to the advertisement, posting of property, a public hearing held, and it appearing that by reason of the requirements of Section 411 and 502.1 having been met and the health, safety and general welfare of the community not being adversely affected, the special exception and setback variances should be granted.

Therefore, it is ORDERED by the Deputy Zoning Commissioner of Baltimore County this \_\_\_\_ day of \_\_\_\_\_, 1984, that the petition for special exception for a public utility use will be GRANTED, the petition for variances from side, rear and front yard setbacks will be GRANTED, and, pursuant to the findings above, the impermeable surface variance will be rendered moot at such time as the final Order is entered in this case, which final Order is intended to be passed upon satisfaction of the following conditions and restrictions:

1. Transcontinental Gas Pipeline Corporation be, and hereby is, made a party to these proceedings and shall receive notice of this Order and any related proceedings.
2. The Baltimore Gas and Electric Company and Transcontinental Pipeline Corporation shall, respectively, enter into easement agreements with Baltimore County, Maryland, so as to prohibit impermeable coverage or surfaces upon an area sufficient so that, in combination with the area of the subject site, the impermeable surface is then less than or equal to the 10% permitted maximum coverage pursuant to Section 1A03.4B5, and the said easement agreements shall provide:
  - (a) The terms, conditions and restrictions stated in the easement shall also be incorporated in a revised site plan, and shall

A representative of Transco appeared at the hearing, and stated his agreement with the conditions set forth herein.



be perpetual and without limitation.

(b) The said easement agreements are enforceable by any duly authorized public official.

3. The grant of the within special exception is not effective until approval by the Deputy Zoning Commissioner of Baltimore County of the aforesaid easement agreements and until said easement agreements and appropriate revised plat are entered into the file of this case following notice and opportunity to be heard for all parties.

4. Additionally, the within special exception shall be granted only so long as any approved easement agreements are not limited or restricted in any manner, or until extinguished in part or in whole by a later Order of the Deputy Zoning Commissioner, as provided in the deeds of easement.

5. No modification of any approved easement agreements or alienation of any of the property which is the subject of this case shall occur without further Order and approval of the Deputy Zoning Commissioner. Any proposed or actual amendment or abandonment by the parties or their successors of any conditions of the approved easement agreements shall be subject to further Order of the Deputy Zoning Commissioner.

6. The grant of the within special exception is also subject to the prior verification by written Opinion of the Baltimore County Office of Law that Baltimore County, Maryland, is authorized to enter into the subject deeds of easement, and subject to the approval of the County Office of Law as to form and legal sufficiency.

7. The subject site shall be landscaped and meet all requirements of the Baltimore County Landscaping Manual.

8. The revised site plan referred to in Paragraph 2(a) above shall also eliminate the proposed southwest driveway as shown on Petitioner's Exhibit 1.

9. The Petitioner shall comply with state regulations pertinent to allowable noise levels at receiving property lines in residential areas and, in addition, shall not operate so as to be a nuisance.

This Order is an interlocutory Order and is subject to further final Order of the Deputy Zoning Commissioner for the purpose of reviewing the easement agreements, revised site plan, and related documents to be submitted in accordance with this Order.

Deputy Zoning Commissioner of  
Baltimore County

85-1084

LAW OFFICES  
COOK, HOWARD, DOWNES & TRACY  
210 ALLEGHENY AVENUE  
P.O. BOX 5517  
TOWSON, MARYLAND 21204

JAMES D. C. DOWNES  
(410) 821-1871  
TELEPHONE  
(410) 821-4111  
TELECOPIER  
(410) 821-0147

November 28, 1984

HAND DELIVERED

Mr. Dennis Sutton  
13500 Beaver Dam Road  
Cockeysville, Maryland 21030

Dear Mr. Sutton:

Enclosed please find a copy of a Memorandum Opinion and Order.

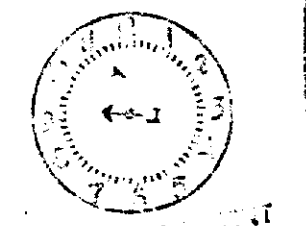
Sincerely,  
Robert A. Hoffman

RAH/kak  
Enclosure

CC: William E. Colburn, Esquire  
Mrs. Jean Jung  
Peter Max Zimmerman  
John B. Howard, Esquire

COPIES GAS AND ELECTRIC CO  
85-87-XA

85-87-XA



13500 Beaver Dam Rd  
Cockeysville, MD 21030  
Dec. 6, 1984

Mr. Robert Hoffman,  
I have read the memorandum of Nov. 28, 1984. As per our conversation of Nov. 5, 1984 I understand my response to it is desired. Basically I reiterate my position of my letter of Oct. 23, 1984 as I see no substantial difference with the previous memorandum. Your word of some changes of the appearance and landscaping being improved is encouraging. I still think the agreement the People's Council wants is not needed, avoids the real though minor impact of run-off, and tangential to the whole matter.  
The subject of present and future noise is still a priority. As I mentioned with the falling of leaves and colder air the noise level at my home and according to my neighbors at theirs has increased. On Tuesday Nov. 27, 1984 Mr. Bergen of the State Health & Mental Hygiene sent two members of his staff to our. The recorded readings of 51 decibels near my house on a day that was favorable to lower reading at that point.

Although the previous noise level has been far greater on other occasions this reading of 51 decibels tells me what the 55 decibel of state law it is not an acceptable noise level to be introduced to a quiet rural residential area via the special exception process. I believe 40 or 45 decibels maximum should be written into the agreement.

Thank You  
Dennis K. Sutton

85-87-XA

85-87-XA

COPIES GAS & ELECTRIC CO  
TO JJ  
9

Cook, Howard, Downes & Tracy  
210 ALLEGHENY AVENUE  
P.O. BOX 5517  
TOWSON, MD 21204

Attention: Mr. Robert A. Hoffman  
Gentlemen:

In reference to Condition 1 the 10% maximum coverage is not only to allow 90% permeable surface but to guarantee 90% open space; the easements in the Park are already committed to such use. The use of these linear easements could set a precedent for all gas operations and subvert the spirit and intent of law. The permeability requirement could be met by other measures and a special exception granted by virtue of B.G. & E. making a greater effort to blend their operation with the Park landscape. I believe it was testified that no plans had been drawn for the new building. After the meeting I was shown plans for a squarish, utilitarian brick building 12' in height with a flat roof--this certainly could be improved upon with little additional expenditures. If the Baltimore County Rec and Parks enters into the proposed agreement it would seem that the consideration could be for B.G. & E. to provide a more attractive view at the entrance to Oregon Ridge and looking down from the Lodge by improving their site. This would also bear on Condition 2. Special attention should be directed to Sect. IX B.b. in the Landscape Manual.

In reference to Condition 4 it was testified at the Hearing that a maximum decibel rating of 50 could be attained. This should be agreed upon due to proximity to Park activities and the possibility that wear on equipment will cause higher noise in the future.

In reference to the testimony of substantial savings to rate payers may it be pointed out that nearby residents do not receive gas service and thereby receive no benefit. Past attempts to receive such service were previously denied and more recently B.G. & E. has made it difficult to connect to their service by a combination of rules and high cost quoted.

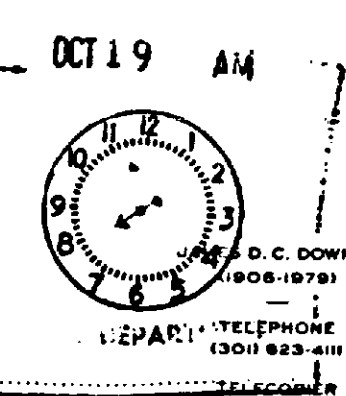
Thank you for your kind attention.

Very truly yours,  
Dennis K. Sutton  
Dennis K. Sutton  
666-0907

cc: Mrs. Jean Jung  
Mr. Peter Zimmerman

85-108

LAW OFFICES  
COOK, HOWARD, DOWNES & TRACY  
210 ALLEGHENY AVENUE  
P.O. BOX 5517  
TOWSON, MARYLAND 21204



October 18, 1984

Mrs. Jean Jung  
Deputy Zoning Commissioner  
for Baltimore County  
County Office building  
111 W. Chesapeake Avenue  
Baltimore, Maryland 21204

Re: Petitions for Special Exception and  
Variances - BG&E, Petitioner

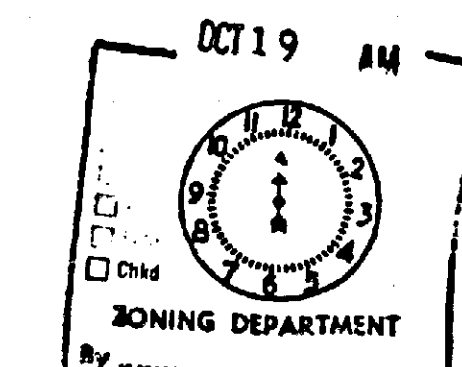
Dear Mrs. Jung:

Enclosed please find a copy of the Opinion and Order drafted in the above-referenced matter. Please let me have any comments at your earliest convenience.

Sincerely,  
Robert A. Hoffman

RAH/prd  
Enclosure

CC: William E. Colburn, Esquire  
John B. Howard, Esquire  
Peter Max Zimmerman, Esquire  
Mr. Dennis Sutton



LAW OFFICES  
COOK, HOWARD, DOWNES & TRACY  
210 ALLEGHENY AVENUE  
P.O. BOX 5517  
TOWSON, MARYLAND 21204

JAMES D. C. DOWNES  
(410) 821-1871  
TELEPHONE  
(410) 821-4111  
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(410) 821-0147

October 18, 1984

Peter Max Zimmerman  
Deputy People's Counsel  
for Baltimore County  
Room 223  
Court House  
Towson, Maryland 21204

Re: Petitions for Special Exception and  
Variances - BG&E, Petitioner

Dear Mr. Zimmerman:

Enclosed please find a copy of the Opinion and Order drafted in the above-referenced matter. As you will recall, Mrs. Jung stated that comments to this Opinion and Order are to be received by this office within 2 days from delivery.

Sincerely,  
Robert A. Hoffman

RAH/prd  
Enclosure

CC: William E. Colburn, Esquire  
John B. Howard, Esquire  
Mrs. Jean Jung  
Mr. Dennis Sutton



LAW OFFICES  
COOK, HOWARD, DOWNES & TRACY  
210 ALLEGHENY AVENUE  
P.O. BOX 5517  
TOWSON, MARYLAND 21204

JAMES H. COOK  
JOHN B. HOWARD  
DAVID D. DOWNES  
DAVID C. TRACY, JR.  
JOHN H. JUNE, III  
JOSEPH C. WICK, JR.  
HENRY A. PECK, JR.  
HERBERT A. O'CONNOR, III  
THOMAS L. HUDSON  
C. ENEV DRELEY, JR.  
GEORGE K. REYNOLDS, III  
H. KING HILL, II  
ROBERT A. HOFFMAN  
DIORAMA C. DOPPIN  
CYNTHIA M. FANN  
AROUS E. FINNEY

JAMES D. C. DOWNES  
(1908-1878)  
—  
TELEPHONE  
(301) 823-4444  
TELECOPIER  
(301) 821-0147

October 18, 1984

Mr. Dennis Sutton  
13500 Beaver Dam Road  
Cockeysville, Maryland 21030

Re: Petitions for Special Exception and  
Variances - BG&E, Petitioner

Dear Mr. Sutton:

Enclosed please find a copy of the Opinion and Order  
drafted in the above-referenced matter. As you will recall  
Mrs. Jung stated that comments to this Opinion and Order are  
to be received by this office within 2 days from delivery.

Sincerely,

*Robert A. Hoffman*  
Robert A. Hoffman

RAH/prd  
Enclosure

CC: William E. Colburn, Esquire  
John B. Howard, Esquire  
Peter Max Zimmerman, Esquire  
Mrs. Jean Jung

IN RE: \* BEFORE THE  
PETITIONER'S SPECIAL EXCEPTION \* DEPUTY ZONING COMMISSIONER  
AND ZONING VARIANCES \* OF  
Beginning at the center line \* OF  
of Beaver Dam Road, 2217' SE \* BALTIMORE COUNTY  
from center line of Shawan \* Case No.: 85-87-XA  
Road - 8th Election District \*  
Baltimore Gas & Electric \*  
Company. \*  
Petitioner \*  
\* \* \* \* \*

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein, the Baltimore Gas & Electric  
Company ("BG&E"), requests a special exception to allow a  
public utility use for the metering and regulating of  
natural gas and variances to permit side and rear yard set-  
backs of 30' in lieu of the required 50' and a front yard  
setback of 70' in lieu of the required 100' (herein the  
"setback variances"), as well as a variance to permit  
greater than 10% coverage of the RC-4 zoned parcel by  
impermeable surfaces (herein the "impermeable surface  
variance").

Before adducing testimony in these Petitions,  
Counsel to BG&E and Peoples' Counsel for Baltimore County,  
a party to these proceedings, entered into a stipulation  
regarding the impermeable surface variance. Counsel agreed  
that the variance from this requirement would be moot if  
restrictions were placed on certain contiguous easements.

the area of which, when combined with the uncovered area on  
the subject site, would bring the impermeable surfaces under  
the 10% maximum.

The easements referred to are an existing gas  
pipeline easement owned by BG&E and an installed pipeline  
owned by Transcontinental Gas Pipeline Corporation  
("Transco") for which an easement is in process of being  
executed. Both the existing and proposed pipeline easements  
serve, and are an integral part of, the proposed facility  
and traverse the Baltimore County Department of Recreation  
and Parks' Oregon Ridge Park.

The Petitioner's requests are, in effect, a request  
for an amendment to a special exception granted on November  
4, 1949, Case No. 1570-S, and for variances to enlarge an  
existing facility for the metering and regulating of natural  
gas. Thus, the Petitioner has the burden of satisfying the  
requirements of Sections 411 and 502.1 BCZR with respect to  
the special exception and of Section 307 BCZR for the set-  
back variances.

The Petitioner presented testimony through C. W.  
Crooks, Jr., General Supervisor of Planning and Engineering  
for BG&E, and Mr. Robert W. Pohl, Project Manager for the  
subject facility. Both witnesses testified that the  
proposed use would be conducted without detriment to the  
neighborhood and would not adversely affect the public  
interest. Further, testimony indicated that the proposed

2

use would result in a substantial savings to rate payers of  
BG&E.

Also appearing on behalf of Petitioner was  
Mr. Bernard F. Semon, a licensed real estate appraiser, who  
testified that operation of this facility would not  
adversely affect surrounding property values.

Further testimony was heard from Mr. Dennis Sutton,  
a participant in this proceeding and neighbor of BG&E's  
site, who voiced certain concerns with regard to the  
proposed use.

It appears from the testimony and evidence  
presented that the use proposed by Petitioner at the  
particular location described by Petitioner's Exhibit 1 will  
not have any adverse impact above and beyond those  
inherently associated with such a special exception use,  
irrespective of its location within the zone. Schultz v.  
Fritts, 291 Md. 1 (1981). The testimony was convincing that  
the proposed use will not be detrimental to the health,  
safety or general welfare of the locality, nor tend to  
create congestion of roads, streets, or alleys therein, nor  
be inconsistent with the purposes of the property's zoning  
classification, nor in any other way inconsistent with the  
spirit and intent of the BCZR.

Therefore, after reviewing all of the testimony  
and evidence presented, it appears that this amendment to  
an existing special exception, as applied for, should be

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PHOTOGRAPHS  
BEAVER DAM GATE STATION



VIEW LOOKING SOUTHERLY ALONG BEAVER DAM ROAD  
FRONTAGE.



VIEW LOOKING NORTHERLY ALONG BEAVER DAM ROAD  
FRONTAGE.

PETITIONER'S  
EXHIBIT 2

granted, with certain conditions and restrictions as more  
fully described below.

With regard to Petitioner's setback variances, an  
area variance may be granted where strict application of  
the zoning regulation to the Petitioner and his property  
would cause practical difficulty. McLean v. Solley, 270  
Md. 208 (1973). To prove practical difficulty for an area  
variance a Petitioner must prove the following:

1. That strict compliance with the  
requirement would unreasonably prevent the use of  
the property for a permitted purpose or render  
conformance unnecessarily burdensome;

2. That the grant would do substantial  
injustice to applicant as well as other property  
owners in the district or that a lesser relaxa-  
tion than that applied for would give substantial  
relief; and

3. That relief can be granted in such  
fashion that the spirit of the ordinance will be  
observed and public safety and welfare secured.

Anderson v. Board of Appeals, Town of Chesapeake  
Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the  
variances are granted, such uses proposed would not be  
contrary to the spirit and intent of the BCZR and would  
not result in substantial detriment to the public good.  
Moreover, if the requested setback variances are not  
granted, a practical difficulty or unreasonable hardship  
would result, since, without the setback variances, there  
could be no facility as proposed and the special exception  
would be rendered meaningless.

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Therefore, after due consideration of all testi-  
mony and evidence, it appears that the setback variances  
should be granted.

With regard to the impermeable surface variance,  
the stipulation entered into by Counsel will allow the  
spirit and intent of Section 1A03.4.B.5 of the BCZR to be  
met and render the requested variance moot.

Pursuant to the advertisement, posting of  
property, a public hearing held, and it appearing that by  
reason the requirements of Section 411 and 502.1 having  
been met and the health safety and general welfare of the  
community not being adversely affected, the special  
exception and setback variances should be granted.

Therefore, IT IS ORDERED by the Deputy Zoning  
Commissioner of Baltimore County this \_\_\_\_ day of October,  
1984, the Petition for Special Exception for a public  
utility use be granted, the Petition for Variances from  
side, rear and front yard setbacks be and are hereby  
granted, and pursuant to the findings above the  
impermeable surface variance is hereby rendered moot from  
and after the date of this Order, subject, however, to the  
following conditions and restrictions:

1. BG&E and Transco shall enter into an  
agreement with Baltimore County to prohibit  
impermeable surfaces upon easements owned by  
Transco and BG&E sufficient in area, so that when  
combined with the total area of the subject site,  
the impermeable surfaces are less than or equal  
to the 10% permitted maximum coverage. Such

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agreement shall be approved by People's Counsel  
for Baltimore County and the Deputy Zoning  
Commissioner for Baltimore County.

2. The subject site shall be landscaped  
and meet all requirements of the Baltimore County  
Landscape Manual.

3. The Petitioner shall submit a revised  
plan which eliminates the proposed southwest  
driveway as shown on Petitioner's Exhibit 1.

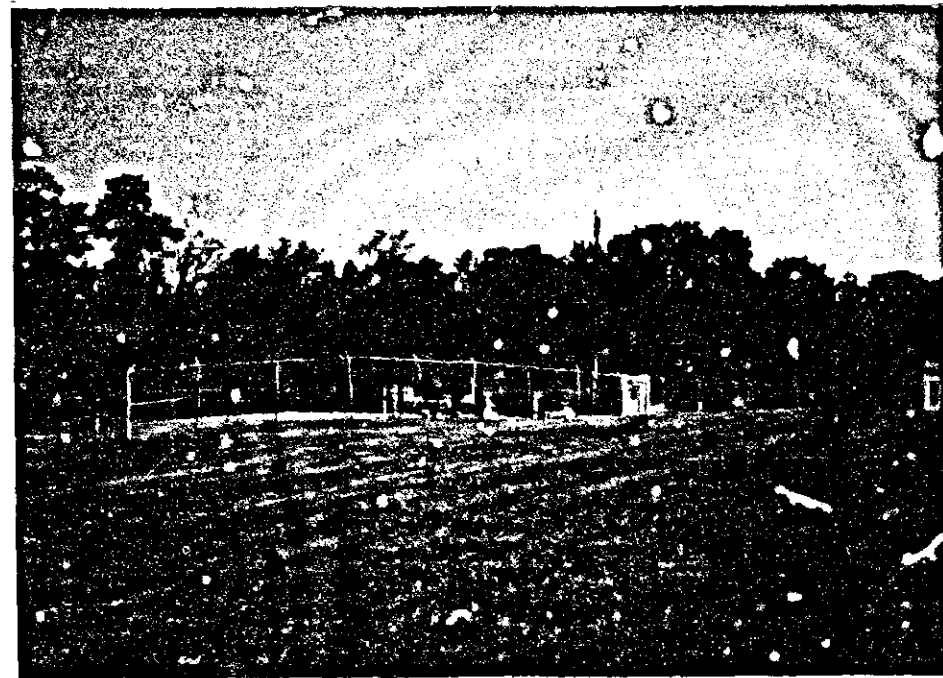
4. The Petitioner shall comply with all  
State regulations with regard to noise levels as  
a result of the intended use.

Deputy Zoning Commissioner of  
Baltimore County

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PHOTOGRAPHS, CONTD.



TWO VIEWS OF THE REAR PORTION OF THE SUBJECT SITE.



PETITIONER'S  
EXHIBIT 2

PHOTOGRAPHS, CONTD.

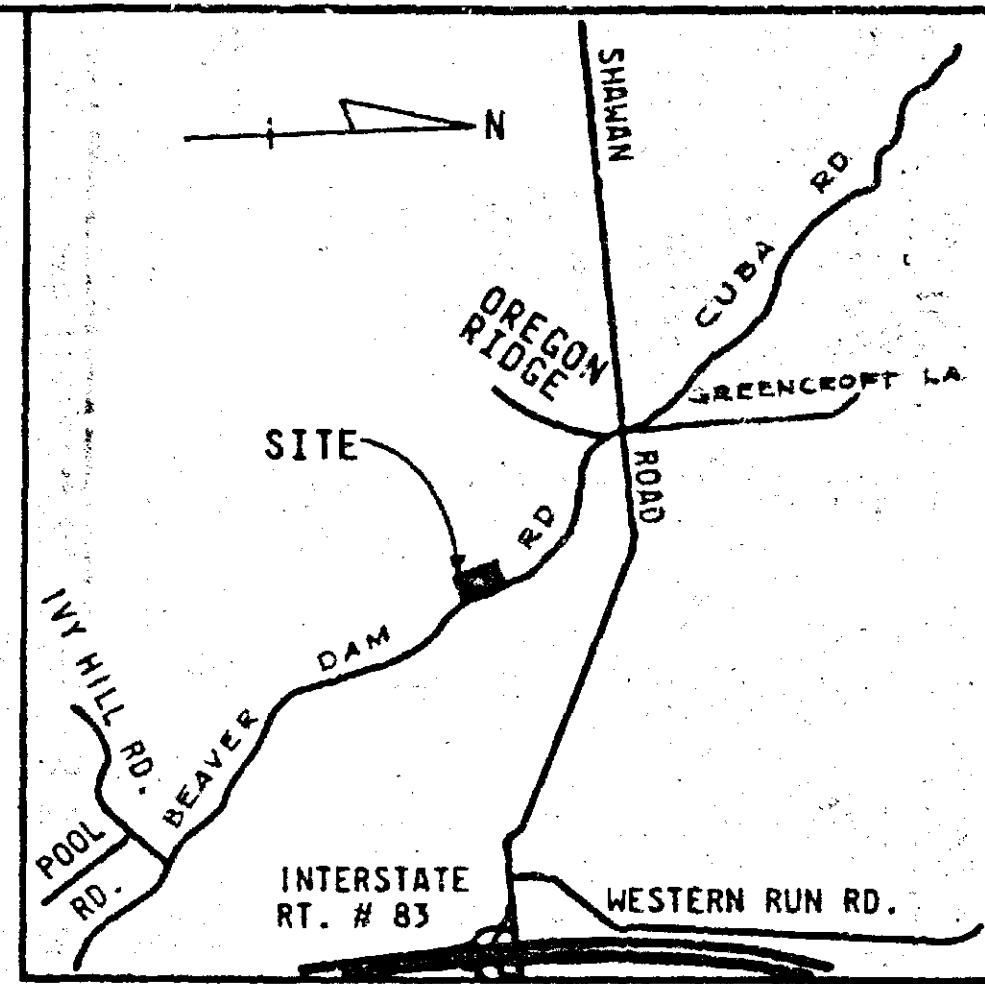
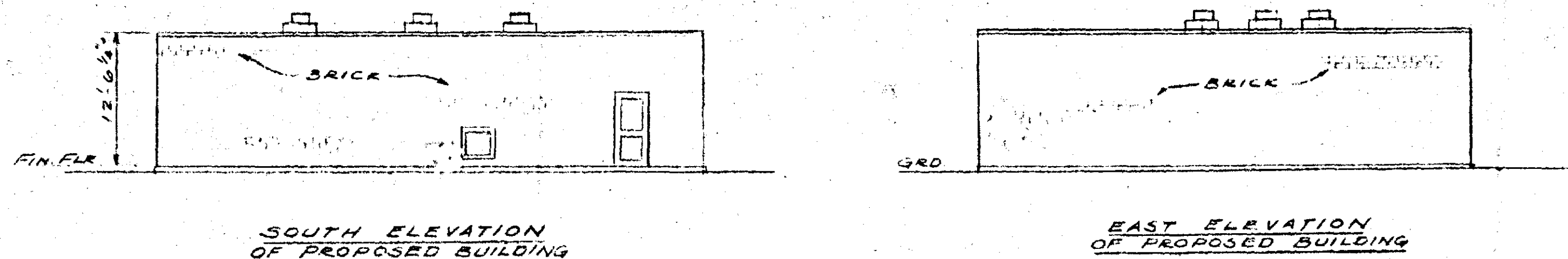


VIEW LOOKING NORTHERLY AT SUBJECT SITE FROM ENTRANCE ROAD TO OREGON RIDGE PAVILION. PROPOSED BUILDING TO BE CONSTRUCTED IN THE FOREGROUND.

PETITIONER'S  
EXHIBIT 2

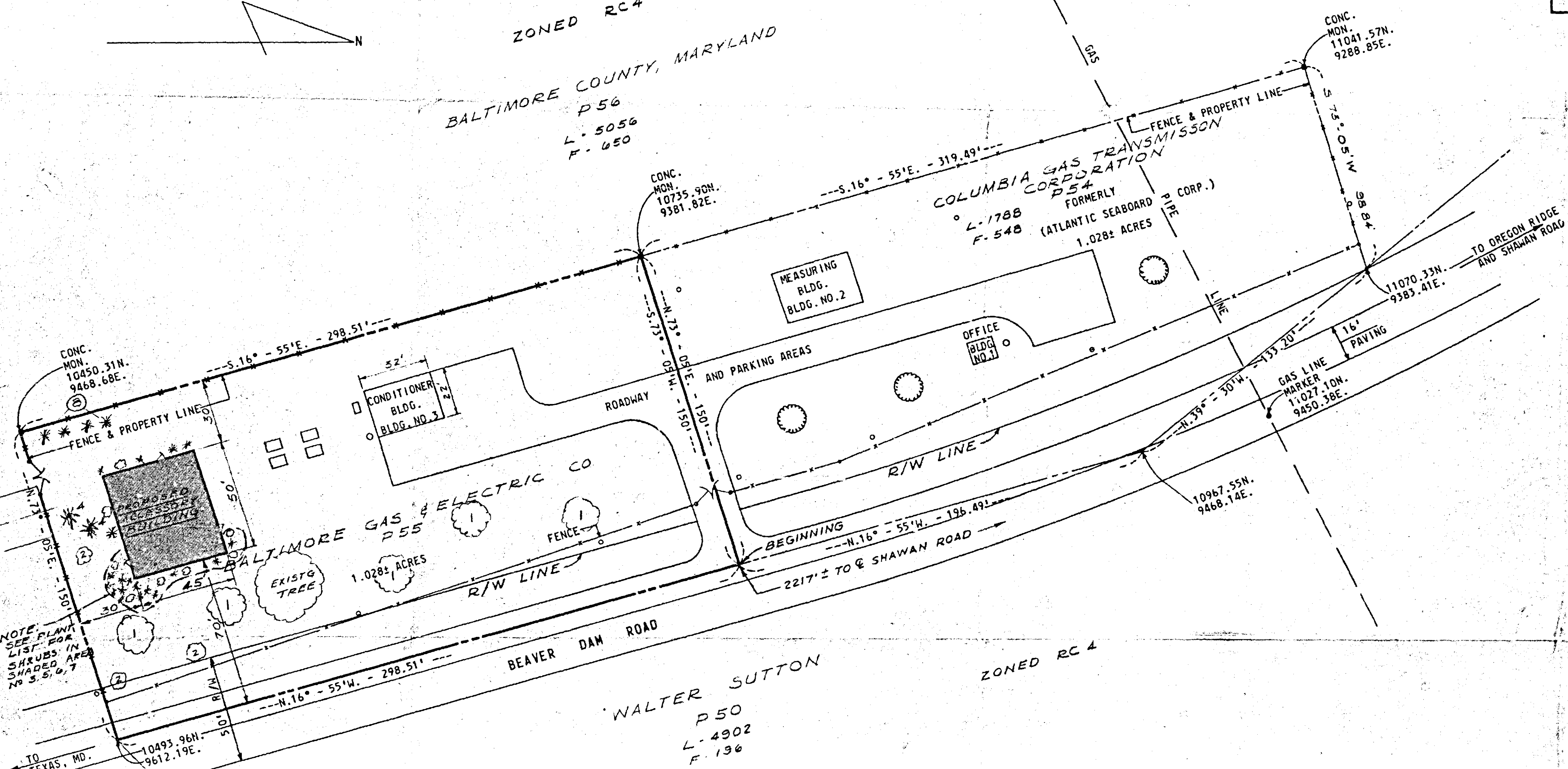


1"=10' 10' 5' 0' 10' 20' 30' 40' 50' 1/4"=1'-0" 5' 0' 5' 10' 15' 20'



VICINITY PLAN  
SCALE: 1"=2000'

ZONED RC4  
BALTIMORE COUNTY, MARYLAND  
P56  
L. 5056  
F. 650



- NOTES:
1. COURSES ARE REFERRED TO THE MAGNETIC MERIDIAN AS OF SEPTEMBER 15, 1949.
  2. COORDINATE SYSTEM SHOWN HEREON IS ASSUMED.
  3. DATA TAKEN FROM SURVEY BY LEO W. RADER, DATED SEPTEMBER 22, 1949.
  4. THIS PROPERTY IS LOCATED IN 8TH DISTRICT, BALTIMORE COUNTY, MARYLAND.
  5. TOTAL AREA 1.0281 ACRES
  6. PARCEL NO 55
  7. PRESENT ZONING - RC4
  8. TITLE REFERENCES: LIGER/FOLIO TGS 1723 549
  9. TAX MAP NO 42
  10. EXISTING SPECIAL EXCEPTION PETITION NO 1570-3 GRANTED: NOVEMBER 4, 1949
  11. B.G. & E. GAS PIPE LINE EASEMENT AS SHOWN ON ATTACHED PLATS SUBJECT TO RES. TRIBUTIONS CONTAINED IN MEMORANDUM OPINION AND ORDER OF THE DEPUTY ZONING COMMISSIONER AND THE VARIANCE FROM IMPERMEABLE SURFACE REQUIREMENT IS MODIFIED
  12. ITEM NO 27

NOTE: SEE PLANT LIST FOR SHRUBS IN SHADED AREA NO 3, 5, 6, 7

BRENTON CORPORATION  
P316  
L. 6480  
F. 77

WALTER SUTTON  
P50  
L. 4902  
F. 136

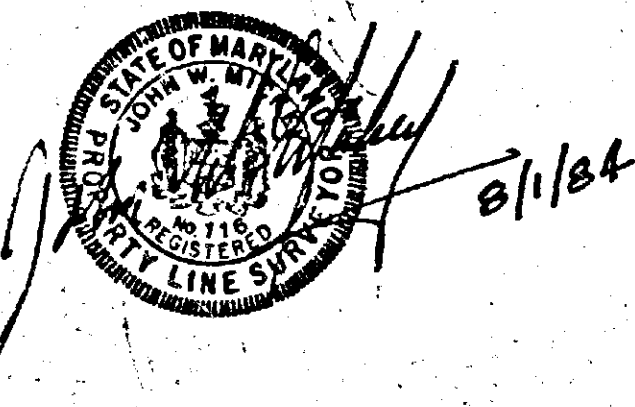
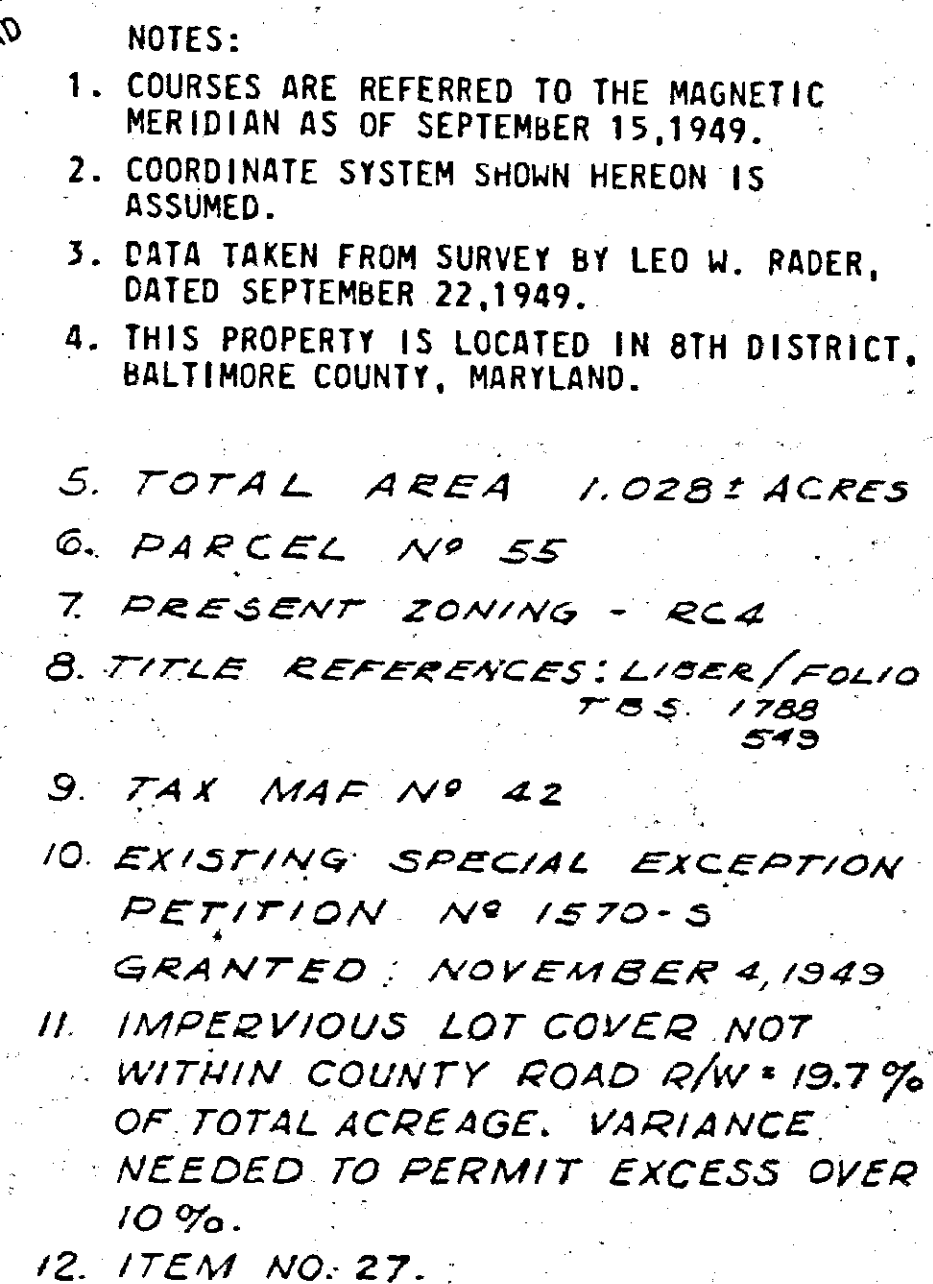
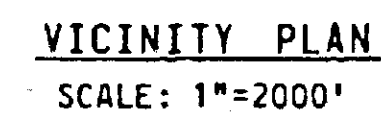
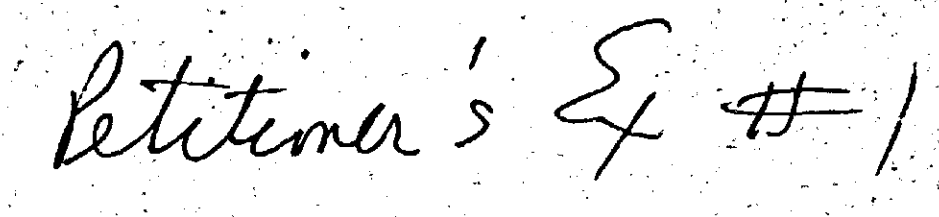
PLANT LIST			
PLANT NO	NR REQD	NAME	SIZE
1	5	ACER RUBRUM - RED MAPLE	10' - 12' (2' - 2 1/2' CAL)
2	3	PYRUS CALLERYANA - BRADFORD PEAR	8' - 10' (1 1/2' - 2' CAL)
3	3	TSUGA CANADENSIS - CANADIAN HEMLOCK	7' - 8'
4	2	PINUS THUNBERGI - JAPANESE BLACK PINE	5' - 6'
5	12	TAXUS CUSPIDATA - SPREADING YEW	2' - 2 1/2'
6	4	VIBURNUM RHYTIDOPHYLLUM - LEATHERLEAF VIBURNUM	3' - 4'
7	4	EUDONYMUS SIEBOLDIANA - EUDONYMUS	2 1/2' - 5'
8	4	PINUS STROBUS - WHITE PINE	5' - 6'

REV.	DATE	DESCRIPTION	APPROVAL

ENGINEERING	CIVIL MECH. ELEC. CHIEF ENG. MANAGER
DESIGN & DRAFTING	
DESIGNED DRAWN CHECKED APPROVED	

PLOT PLAN FOR ZONING	
LOCATED ON BEAVER DAM RD. APPROX. 1 MILE N.W. OF TEXAS, MARYLAND	
BEAVER DAM GATE STATION	
BALTIMORE GAS AND ELECTRIC COMPANY	
GAS SUPPLY DEPT.	
SPRING GARDENS STATION	
REPROD. FROM DWG.	SCALE 1"=30'
DATED 7-16-84	DWG. NO. SKB40716





WALTER SUTTON  
P 50  
L 4902  
F 136

<u>PLANT LIST</u>			
<u>PLANT</u> <u>Nº</u>	<u>Nº</u> <u>REQD.</u>	<u>NAME</u>	<u>SIZE</u>
1	5	ACER RUBRUM - RED MAPLE	10' - 12'
2	3	PYRUS CALLERYANA - BRADFORD PEAR	(2' - 2 1/2' CAL 5' - 10'
3	3	TSUGA CANADENSIS - CANADIAN HEMLOCK	(1 1/2' - 2' CAL 7' - 8'
4	2	PINUS THUNBERGI - JAPANESE BLACK PINE	5' - 6'
5	12	TAXUS CUSPIDATA - SPREADING YEW	2' - 2 1/2'
6	4	VIBURNUM RHYTIDOPHYLLUM - LEATHERLEAF VIBURNUM	3' - 4'
7	4	EUONYMUS SIEBOLDIANA - EUONYMUS	2 1/2' - 5'

REV.	DATE	DESCRIPTION	APPROVAL	ENGINEERING	<u>PLOT PLAN</u> <u>FOR</u> <u>ZONING</u>  LOCATED ON BEAVER DAM RD. APPROX. 1 MILE N.W. OF TEXAS, MARYLAND  <u>BEAVER DAM GATE STATION</u>  <u>BALTIMORE GAS AND ELECTRIC COMPANY</u> <u>GAS SUPPLY DEPT.</u> <u>SPRING GARDENS STATION</u>  REPROD. FROM DWG. SCALE 1"=30' REV.  DATED 7-16-84 DWG. NO. <u>SK840716</u>
				CIVIL _____	
				MECH. _____	
				ELEC. _____	
				CHIEF ENG. _____	
				MANAGER _____	
				DESIGN & DRAFTING	
				DESIGNED _____	
				DRAWN <u>DAN</u>	
				CHECKED _____	
				APPROVED _____	



Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would/would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will/will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, that the herein Petition for Variance(s) to permit

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations



STEPHEN E. COLLINS  
DIRECTOR

August 13, 1984

Mr. Arnold Jablon  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Item No. 27 -ZAC- Meeting of August 7, 1984  
Property Owner: Baltimore Gas and Electric Company  
Location: SW/S Beaver Dam Road 803' S. Shawan Road  
Existing Zoning: R.C.4  
Proposed Zoning: Special Exception for a public utility use (building) for the metering and regulating of natural gas.  
Variance to permit a side and rear yard setback of 30' in lieu of the required 50' and 70' setback to the C/L of the street in lieu of the required 100' and to permit 22.4% lot coverage in lieu of the required max. of 10%.

Acres: 1.028  
District: 8th

Dear Mr. Jablon:

The proposed zoning changes are not expected to cause any traffic problems.

The plan should be revised for the following items.

1. The gate to the site should be moved as far back from Beaver Dam Road as possible.
2. Show access to driveway proposed at the southwest corner of site.

MEF/can

Richard S. Flanagan  
Traffic Engineering Assoc. II



PAUL H. RENCKE  
CHIEF

August 10, 1984

Mr. Arnold Jablon  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

Attention: Nick Commodari, Chairman  
Zoning Plans Advisory Committee

RE: Property Owner: Baltimore Gas and Electric Co.

Location: SW/S Beaver Dam Rd. 803' S. Shawan Road

Item No.: 27 Zoning Agenda: Meeting of 8/7/84

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals of \_\_\_\_\_ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at \_\_\_\_\_

EXCEEDS the maximum allowed by the Fire Department.

( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

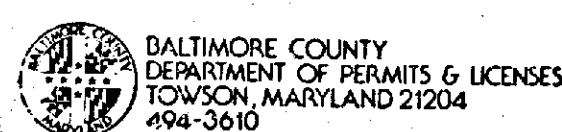
(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

( ) 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWED BY: [Signature] Noted and Approved: [Signature]  
Planning Group Fire Prevention Bureau  
Special Inspection Division

/mb



August 28, 1984

TOD ZALESKI JR.  
DIRECTOR

Mr. Arnold Jablon, Zoning Commissioner  
Office of Planning and Zoning  
County Office Building  
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 27 Zoning Advisory Committee Meeting are as follows:

Property Owner: Baltimore Gas & Electric Company  
Location: SW/S Beaver Dam Road 803' S. Shawan Road  
Existing Zoning: R.C. 4  
Proposed Zoning: Special exception for a public utility use (building) for the metering and regulating of natural gas.

Acres: 1.028  
District: 8th.

The items checked below are applicable:

(A) All structures shall conform to the Baltimore County Building Code 1981/Council Bill 1-82 State of Maryland Code for the Handicapped and Aged; and other applicable Codes.

(B) A building & other permit shall be required before beginning construction.

(C) Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required. Non-reproduced seals and signatures are required on Plans and Technical Data.

(D) Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.

(E) An exterior wall erected within 6'0" for Commercial use or 3'0" for One & Two Family use group of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0" of lot lines. A firewall is required if construction is on the lot line, see Table 401, line 2, Section 1407 and Table 1402, also Section 503.2.

(F) Requested variance appears to conflict with the Baltimore County Building Code, Section 4.

(G) A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.

(H) Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office that the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 401.

(I) Comments: This structure shall be classified as a high hazard use and is not permitted within 200 feet of any building classified as Assembly Use Group A or Institutional Use Group "I". See Section 501 for explosion venting and Section 600.7 as to restricted locations. Plans does not show structures or uses of adjoining properties.

NOTE: These comments reflect only on the information provided by the drawings submitted to the Office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review) at 111 W. Chesapeake Ave., Towson.

Very truly yours,

[Signature]  
Charles E. Burbanck, Chief  
Plans Review

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER  
PETITION FOR VARIANCES  
NW/S Beaver Dam Rd., 2,217' SE : OF BALTIMORE COUNTY  
of the Centerline of Shawan Rd.,  
8th District

BALTIMORE GAS AND ELECTRIC : Case No. 85-87-XA  
COMPANY, Petitioner

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

[Signature]  
Phyllis Cole Friedman  
People's Counsel for Baltimore County

[Signature]  
Peter Max Zimmerman  
Deputy People's Counsel  
Rm. 223, Court House  
Towson, MD 21204  
494-2188

I HEREBY CERTIFY that on this 4th day of September, 1984, a copy of the foregoing Entry of Appearance was mailed to John B. Howard, Esquire, 210 Allegheny Ave., P. O. Box 5517, Towson, MD 21204, Attorney for Petitioner.

[Signature]  
Peter Max Zimmerman  
Peter Max Zimmerman

RE: PETITION FOR SPECIAL \* BEFORE THE  
EXCEPTION \*  
PETITION FOR VARIANCES \* DEPUTY ZONING COMMISSIONER  
Beginning at Centerline \* OF BALTIMORE COUNTY  
of Beaver Dam Rd. \*  
2217' SE of Centerline \*  
of Shawan Rd. \*  
8th District \*  
BALTIMORE GAS & ELECTRIC \*  
COMPANY, Petitioner \*  
\* \* \* \* \*

The Petitioner herein, the Baltimore Gas & Electric Company ("BG&E"), requests a special exception to allow a public utility use for the metering and regulating of natural gas and variances to permit side and rear yard setbacks of 30' in lieu of the required 50' and a front yard setback of 70' in lieu of the required 100' (herein the "setback variances"), as well as a variance to permit greater than 10% coverage of the RC-4 zoned parcel by impermeable surfaces (herein the "impermeable surface variance").

In reference to the impermeable surface variance, the parties tentatively agreed that it would be moot upon the following conditions:

1. Baltimore County, Maryland would have to agree to restrict its use of land above a contiguous pipeline easement owned by BG&E and such agreement(s) shall be recorded in the Land Records of Baltimore County.

2. The area of the easement so restricted would be sufficient so that, in combination with the uncovered area on the subject site, the amount of impermeable surface on the site would be brought under the 10% maximum.

3. All parties would have to agree to the form and sufficiency of the documents prepared to carry out this intent, with a view to insuring the integrity and permanence of the restrictions.

4. There would have to be confirmation by the County Office of Law, in writing, of the authority of the County to enter into such restrictions.

The County Board of Appeals of Baltimore County had occasion previously to decide upon Pleasant Hill Chapel's requested variance to Section 1A03.4B5 (the maximum 10% impermeable restriction in RC-4 zones) and to consider the type of land transactions which might satisfactorily moot or legally satisfy the requirement. In that case, No. 82-98-A, the Board conditioned its approval upon language in the Order, plat, and easement providing the perpetual maintenance of the specified terms, conditions and restrictions without limitation; the provision that the grant is effective only so long as the easement is not limited or restricted in any manner, or until extinguished in part or in whole by a later Order of the County Board of Appeals; the references to the purposes of the arrangement, and the agreement of the parties to the

2

UNDER REVIEW FOR FILING

DATE: 8/28/84  
BY: [Signature]  
[Signature]  
[Signature]

ORDER RECEIVED FOR FILING

DATE: 8/28/84  
BY: [Signature]  
[Signature]  
[Signature]



ORDER RECEIVED FOR FILING

DATE December 12, 1984  
BY May Compagnon (Clerk)

easement that no modification of the agreement or alienation of the property shall occur without further Order and approval of the Board; the provision that the agreement may be enforced by duly authorized public officials and/or interested parties; and the reference in the body of the Easement Agreement to the zoning case; and the clause that the conditions of the easement shall not be amended or abandoned by the parties or their successors until further Order of the County Board of Appeals. Furthermore, the Board expressed its special concern for the legislative purpose of environmental protection.

Here, BG&E is a public utility, regulated by the Public Service Commission of the State of Maryland. It has presented uncontradicted testimony that its proposal furthers the public interest because it will pass on all of the anticipated reduction in its cost of purchase of natural gas to the rate-paying public. It is also noteworthy that BG&E has an existing special exception at the site since November 4, 1949. Accordingly, the interest of BG&E, a public utility in the proposed Beaver Dam Gate Station must be considered along with the goal of preserving the natural resources and water supply watersheds of Baltimore County. In this context, the decision in Pleasant Hill Chapel may be adapted to the unique circumstances in this case.

3

ORDER RECEIVED FOR FILING

DATE December 12, 1984  
BY May Compagnon (Clerk)

The Petitioner's requests are, in effect, a request for an amendment to a special exception granted on November 4, 1949, Case No. 1570-S, and for variances to enlarge an existing facility for the metering and regulating of natural gas and construct a new building or station. Thus, the Petitioner has the burden of satisfying the requirements of Sections 411 and 502.1 BCZR for the setback variances.

The Petitioner presented testimony through C. W. Crooks, Jr., General Supervisor of Planning and Engineering for BG&E, and Mr. Robert W. Pohl, Project Manager for the subject facility. Both witnesses testified that the proposed use would be conducted without detriment to the neighborhood and would not adversely affect the public interest.

Also appearing on behalf of Petitioner was Mr. Bernard Semon, a licensed real estate appraiser, who testified that operation of this facility would not adversely affect surrounding property values.

Mr. Dennis Sutton, a neighbor of the subject site, complained of noise emanating from the site. Mr. Pohl acknowledged that, in the absence of the building covering it, the operation was producing noise at levels around 70 dba. He testified, however, that following construction, the levels would be reduced to those permitted under State law. Mr. Sutton also expressed

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concern about the appearance of the facility, but stated generally that BG&E had been reasonably cooperative throughout the years.

It appears from the testimony and evidence presented that, aside from the question of the impermeable surface variance, the proposed use will not be detrimental to the health, safety or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the BCZR.

Therefore, after reviewing all of the testimony and evidence presented, it appears that this amendment to an existing special exception, as applied for, should be granted, with certain conditions and restrictions as more fully described below.

With regard to Petitioner's setback variances, an area variance may be granted where strict application of the zoning regulation to the Petitioner and his property would cause practical difficulty. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance a Petitioner must prove the following:

1. That strict compliance with the requirement would reasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

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2. That the grant would do substantial injustice to applicant as well as other property owners in the district or that a lessor relaxation than that applied for would give substantial relief; and

3. That relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such uses proposed would not be contrary to the spirit and intent of the BCZR and would not result in substantial detriment to the public good. Moreover, if the requested setback variances are not granted, a practical difficulty or unreasonable hardship would result, since, without the setback variances, there could be no facility as proposed and the special exception would be rendered meaningless.

Therefore, after due consideration of all testimony and evidence, it appears that the setback variances should be granted.

With regard to the impermeable surface variance, the satisfaction of the stated conditions will allow the spirit and intent of Section 1A03.4.B.5 of the BCZR to be met and render the requested variance moot.

Pursuant to the advertisement, posting of property, a public hearing held, and it appearing that by

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reason of the requirements of Section 411 and 502.1 having been met and the health, safety and general welfare of the community not being adversely affected, the special exception and setback variances should be granted.

Therefore, it is ORDERED by the Deputy Zoning Commissioner of Baltimore County this 12<sup>th</sup> day of December, 1984, that the petition for special exception for a public utility use is GRANTED, the petition for variances from side, rear and front yard setbacks, is GRANTED, and, pursuant to the findings above, the impermeable surface variance is rendered moot subject to the following conditions and restrictions:

1. The Baltimore Gas and Electric Company shall enter into an appropriate agreement(s) with Baltimore County, Maryland, so as to prohibit impermeable coverage or surfaces overlying the pipeline easement, sufficient so that, in combination with the area of the subject site, the impermeable surface is then less than or equal to the 10% permitted maximum coverage pursuant to Section 1A03.4B5, and the said agreement(s) shall provide:

(a) The terms, conditions and restrictions stated in the Agreement(s) shall also be incorporated in a revised site plan, all to be included within this case file.

(b) The said Agreement(s) are enforceable by any duly authorized public official.

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2. The grant of the within special exception is not effective until approval by the Deputy Zoning Commissioner following submission of the aforesaid Agreement(s) and revised plat, and until recordation of the Agreement(s) among the Land Records of Baltimore County.

3. Additionally, the within special exception shall be granted only so long as any approved agreement(s) is not limited or restricted in any manner or until modified in part or in whole by later Order of the Zoning Commissioner, as provided in said agreement(s).

4. No modification of any approved agreement(s) or alienation of any property which is the subject of this case shall occur without further Order and approval of the Zoning Commissioner. Any proposed or actual amendment or abandonment by the parties or their successors of any conditions of the approved agreement(s) shall be subject to further Order of the Zoning Commissioner. These requirements shall not apply to a change of ownership or corporate reorganization which preserves the use approved in this Order provided that prior written notice is given to the transferee with a copy to the Zoning Commissioner.

5. The grant of the within special exception is also subject to the prior written confirmation of the Baltimore County Office of Law that Baltimore County, Maryland is authorized to enter into the subject

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agreement(s), a copy of which shall be included in this file.

6. The subject site shall be landscaped and meet all requirements of the Baltimore County Landscaping Manual.

7. The revised site plan referred to in Paragraph 2(a) above shall also eliminate the proposed southwest driveway as shown on Petitioner's Exhibit 1.

8. The Petitioner shall comply with State Regulations pertinent to allowable noise levels, and further, noise generated in conjunction with this proposed structure shall not exceed 55 dba as measured at Petitioner's property lines.

Consented to by:

Joan M.H. Jung  
Deputy Zoning Commissioner of Baltimore County

John B. Howard  
John B. Howard  
William E. Colburn  
William E. Colburn  
Attorneys for Petitioner

Peter Max Zimmerman  
Peter Max Zimmerman  
Deputy Peoples Counsel

BALTIMORE COUNTY  
OFFICE OF LAW  
TOWSON, MARYLAND 21204  
494-4420

MALCOLM F. SPICER, JR.  
COUNTY ATTORNEY

Peter Max Zimmerman, Esquire  
Deputy People's Counsel  
Second Floor - Court House  
Towson, Maryland 21204

Re: Baltimore Gas & Electric  
Company, Petitioner  
Zoning Case #85-87 XA

Dear Mr. Zimmerman:

Baltimore County has authority to enter into an agreement with the Baltimore Gas & Electric Company to provide for restricting the right of Baltimore County to cover B.G.&E.'s easement area with an impermeable surface to protect the open space and preserve the watershed area of the County.

Very truly yours,  
Stanley J. Schapiro  
Stanley J. Schapiro  
Deputy County Attorney

SJS:gh

EXHIBIT B

AUG 1 1985



THIS AGREEMENT, has been entered into on this 29<sup>th</sup> day of November, 1984, by BALTIMORE GAS & ELECTRIC COMPANY, a Maryland corporation (hereinafter called "BG&E"), and BALTIMORE COUNTY, MARYLAND, a body corporate and politic (hereinafter called "the County").

A. BG&E is the owner of a parcel of land containing approximately one (1) acre located on the west side of Beaver Dam Road in the Eighth Election District of Baltimore County, Maryland, upon which it operates a gate station for the metering and regulating of natural gas (hereinafter called "the BG&E Parcel").

The parties agreed that the variance would be moot if BG&E agreed to prohibit impermeable coverage for surfaces overlying a certain pipeline easement more specifically described below, sufficient so that, in combination with the area of the subject site, impermeable surface was less than or

equal to the ten percent permitted maximum under Section 1A03.4B5 of the Baltimore County Zoning Regulations.

C. BG&E is also the owner of a 20 Foot wide gas transmission pipeline easement extending to the BG&E Parcel over land owned by the County (commonly referred to as the Oregon Ridge Park) by virtue of that certain Deed, Bill of Sale and Agreement, dated April 28, 1967 from Atlantic Seaboard Corporation recorded among the Land Records of Baltimore County in Liber E.H.K. Jr., No. 4753 at folio 056 (hereinafter called "the BG&E Easement Area").

**AGREEMENTS -**

1. BG&E and the County each hereby mutually covenant and agree that they will not at any time hereafter cover or cause to be covered all or any portion of the BG&E Easement Area with impermeable surfaces (such as structures or pavements) for a distance extending two thousand (2,000) feet westerly from the point where the BG&E Easement Area intersects with the property line of the BG&E parcel. The BG&E Easement Area is shown on the

site plan entitled Pipeline Easement and filed and approved by Order of the Deputy Zoning Commissioner at Case Number 85-87-XA.

2. There shall be no modification of this Agreement or alienation, restriction, or limitation of the BG&E Easement Area without further order and approval of the Zoning Commissioner of Baltimore County. This requirement shall not apply to a change of ownership or corporate reorganization which preserves the use approved in the Zoning Commissioner's Order provided that prior written notice is given to the transferee and a copy to the Zoning Commissioner.

3. The covenants and restrictions set forth herein are intended to run with and be binding upon the BG&E Easement Area the parties hereto and their respective successors and the grantees of their respective properties; and, they are intended to inure to the benefit of and be enforceable by each of the parties hereto, their successors and the grantees of their respective properties and by any duly authorized public official.

IN WITNESS WHEREOF, the parties hereto have executed  
this Agreement, as of the day and year first above written.

WITNESS: Minnie L. Robinson

BALTIMORE GAS & ELECTRIC COMPANY

By: Norman J. Karmaker

By: Donald P. Hutchinson  
Donald P. Hutchinson,  
County Executive

Approved as to form and legal sufficiency

By: Stanley J. Schapiro  
Stanley J. Schapiro  
Deputy County Attorney

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 26th day of November, 1984, before me, a Notary Public in and for the State aforesaid, personally appeared Norman J. Baumaker who acknowledged himself to be the Vice President of BALTIMORE GAS & ELECTRIC COMPANY, a Maryland corporation, and that he, as such Vice President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation by himself as Vice President.

AS WITNESS my hand and notarial seal

AS WITNESS my hand and notarial seal.

Minnie L. Robinson  
Notary Public

My Commission Expires: July 1, 1986.

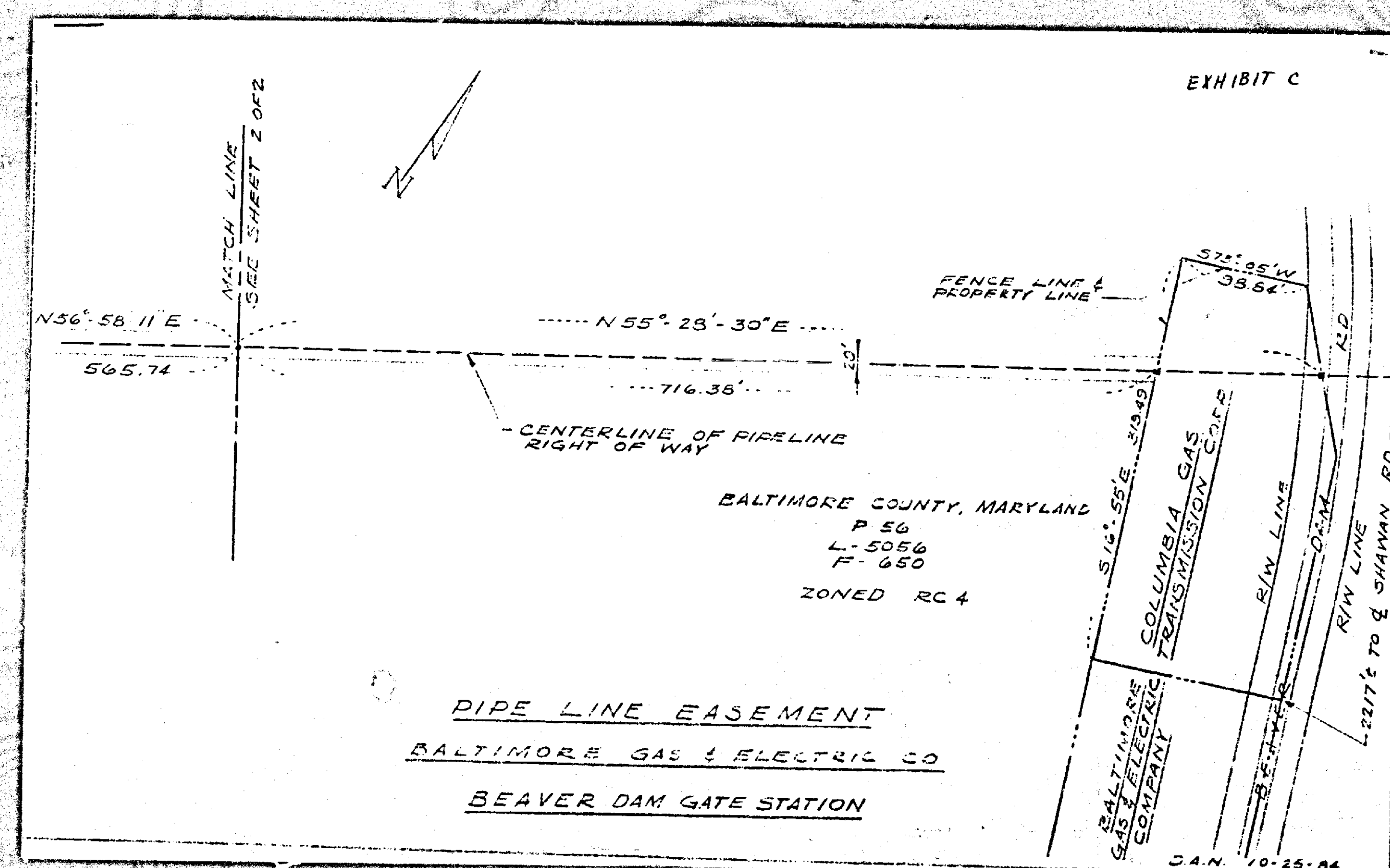
STATE OF MARYLAND, COUNTY OF BALTIMORE. to wit:

I HEREBY CERTIFY that on this 29<sup>th</sup> day of November, 1984, before me, a Notary Public in and for the State aforesaid, personally appeared DONALD P. HUTCHINSON who acknowledged himself to be the County Executive of BALTIMORE COUNTY, MARYLAND a body corporate and politic, and that he, as such County Executive, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation by himself as County Executive

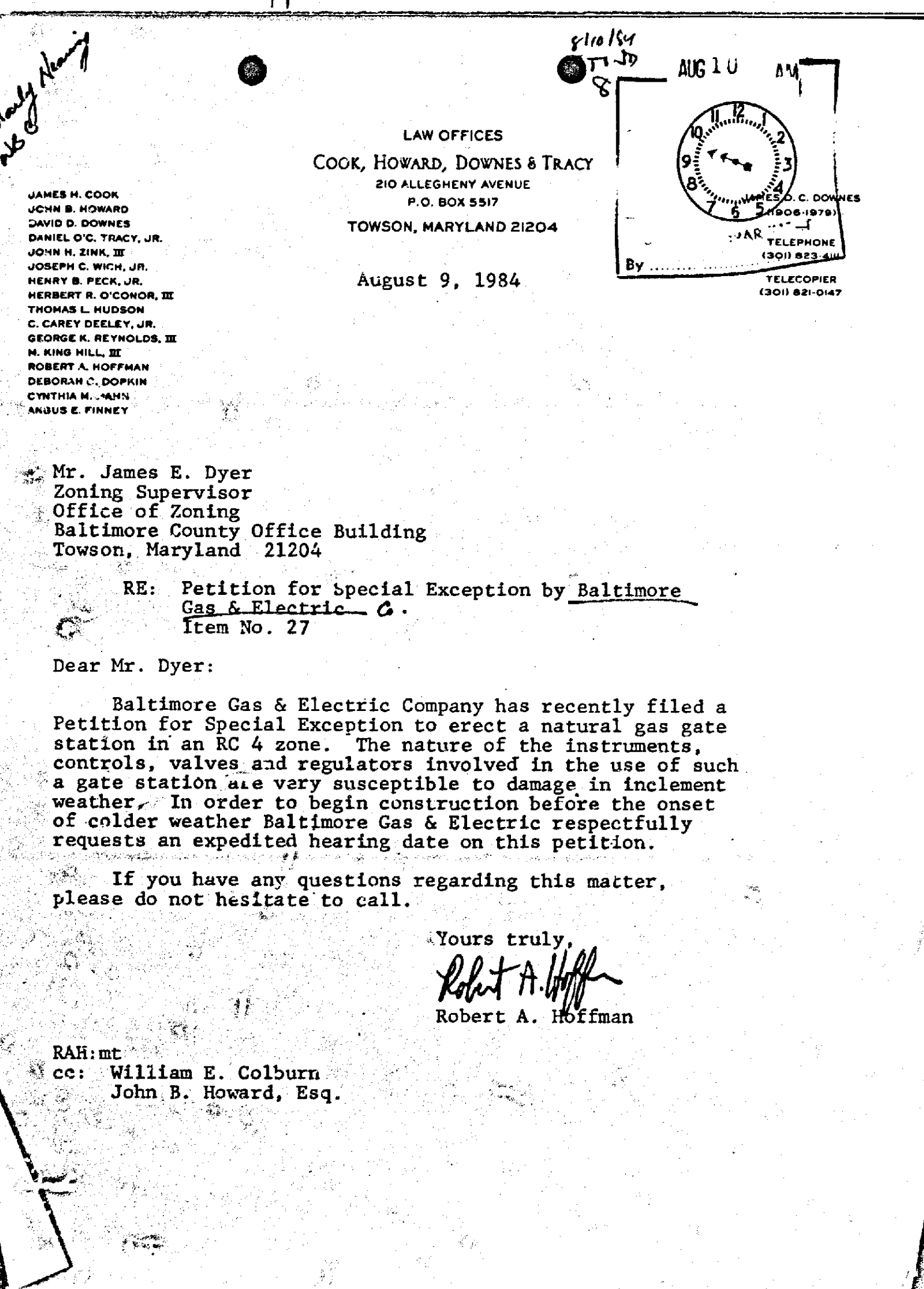
AS WITNESS my hand and notarial seal

Mary Carol Miller  
Notary Public

My Commission Expires: July 1 1986








9/26/84 Enclosure to this letter are found in Case # 85-P3-SPHA

25-670



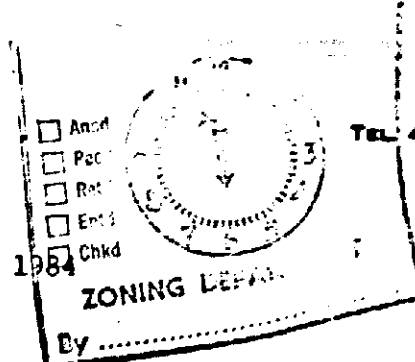
**Baltimore County, Maryland**

PEOPLE'S COUNSEL  
OLD COURT HOUSE  
TOWSON, MARYLAND 21204

PHYLIS COLE FRIEDMAN  
People's Counsel

PETER MAX ZIMMERMAN  
Deputy People's Counsel

September 18, 1984



RE: Haussner Family Ltd. Partnership,  
Petitioner, Case No. 85-83-SPHA;  
Baltimore Gas & Electric Co.,  
Petitioner, Case No. 85-87-XA

Dear Commissioner Jablon:

Petitioners have requested variances to the requirement that no more than 10% of any tract in an R.C. 4 zone be covered by an impervious surface. BCZR 1.A03.4B.5. This regulation was the subject of extensive review in Pleasant Hill Chapel, Inc., Case No. 82-98-A, and was further considered in State Highway Administration, No. 84-318-XA. In Pleasant Hill, following an evidentiary hearing before the County Board of Appeals, the Petitioner agreed to acquire easements to surrounding property to achieve the required 10%, so that the variance became unnecessary, as reflected in the enclosed decision dated November 16, 1982. In State Highway Administration, a land transfer and merger was accomplished, rendering the requested variance moot, as shown in the enclosed Order and Amended Order of the Zoning Commissioner, dated, respectively, May 24 and June 7, 1984.

This office has advocated strict adherence to the standard not only because of the environmental concerns, but also because of the legislative history. In Pleasant Hill, Paul J. Solomon testified to the role of the standard in promoting protection of public water supply watersheds. In order to maintain a satisfactory level of water quality, it was found necessary and appropriate to control the amount of impervious area. Following a review of the literature, discussions with experts in the field, and research conducted by the Office of Planning and Zoning, the Planning staff and Planning Board recommended, and the County Council found that the 10% requirement was reasonably related to the environmental objective and was feasible generally throughout the county. Rather than recite in detail the step-by-step analysis of Mr. Solomon, I enclose the transcript of Mr. Solomon's testimony before the Board of Appeals on May 6, 1982, together with the following enclosures:

1. Bill 45-82.
2. Baltimore County Planning Board Recommendation adopted November 5, 1981.

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The Honorable  
Arnold Jablon  
Zoning Commissioner

September 18, 1984

3. Planning staff recommendation in Pleasant Hill dated September 22, 1981.
4. Baltimore County Planning Board Public Hearing of October 1, 1981.
5. Excerpt of County Council Public Hearing (Norman E. Gerber, Planning Director) of March 16, 1982.
6. U. S. Geological Circular 554, Hydrology, etc., Luna B. Leopold, 1969.
7. Water Resources Bulletin, Urbanization and Stream Quality Improvement, Richard D. Klein, August, 1979.


A review of the above demonstrates that careful consideration went into the impermeable requirement, and that it is a significant link in the legal chain contributing to maintenance of water quality in Baltimore County. Moreover, a review of the legislative history, focusing on the Planning Board recommendation and the testimony and comments at the Planning Board and public hearings, reflects a legislative intent that variances not be granted.

Accordingly, we would oppose the granting of any variance in the above cases. As has been our practice in the past, however, we are willing and able to consider proposals involving easements, land transfers, or other appropriate arrangements so that sufficient land becomes available effectively to satisfy the requirement and/or moot the variance.

Very truly yours,  
*Peter Max Zimmerman*  
Peter Max Zimmerman  
Deputy People's Counsel

cc: John B. Howard, Esquire  
Attorney for Petitioners  
in B.G.&E. & Haussner Ltd.  
Partnership Cases.

PMZ:ah

 BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3333

ARNOLD LABON  
ZONING COMMISSIONER

December 12, 1984

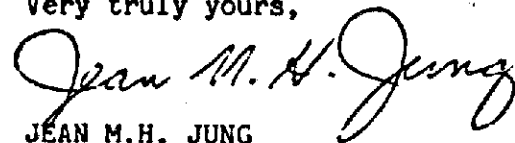
JEAN M. H. JUNG  
DEPUTY ZONING COMMISSIONER

John B. Howard, Esquire  
P.O. Box 5517  
210 Allegheny Avenue  
Towson, Maryland 21204

RE: Petitions for Special Exception  
and Variances  
NW/8 or Beaver Dam Rd., 2,217' SE of the  
center line of Shawan Rd. - 8th Election  
District  
Baltimore Gas and Electric Co. - Petitioner  
No. 85-87-XA (Item No. 27)

Dear Mr. Howard:

I have this date passed my Order in the above captioned matter in accordance with the attached Order and Exhibits A, B, and C.

Very truly yours,  
  
JEAN M.H. JUNG  
Deputy Zoning Commissioner

JMHJ/mc

Attachments

cc: William Colburn, Esquire  
Baltimore Gas and Electric Co.  
Charles Center  
P.O. Box 1475  
Baltimore, Maryland 21203

Mr. Dennis Sutton  
13500 Beaver Dam Road  
Cockeysville, Maryland 21030

People's Counsel

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*[Faint, illegible markings]*

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